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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment to Section 1.773 of the
Commission's Rules Regarding
Pleading Cycle for Petitions
Against Tariff Filing Made on
14 Days' Notice

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CC Docket No. 92-117

ORIGINAL
FILE

**COMMENTS OF THE
AMERITECH OPERATING COMPANIES**

The Ameritech Operating Companies¹ support the Commission's proposal to adjust the pleading cycle for Petitions seeking investigation, suspension or rejection of tariff filings made on fourteen days' notice ("Petitions"), and for Replies to those Petitions ("Replies"). However, the Companies propose that the Commission adopt two additional modifications which will facilitate the briefing process. These modifications are discussed below.

I. Replies Should Be Due Within Three Days After
the Latest Date That Petitions Could Be Filed

Under the rules proposed by the Commission, Replies are due "within three days after service of the petition".² Under the best of circumstances, this will give the Ameritech Operating Companies three business days to respond to a Petition. However, if a Petition is served on a Thursday, the Reply will be

¹The Ameritech Operating Companies (or "Companies") are: Illinois Bell Telephone Company; Indiana Bell Telephone Company, Incorporated; Michigan Bell Telephone Company; The Ohio Bell Telephone Company; and Wisconsin Bell, Incorporated.

²NPRM, Appendix, §1.773(b)(1)(i).

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due on the following Monday. The Companies will therefore have only two business days to respond. Similarly, if a Petition is served the day before a holiday which falls on a Friday, the Reply will be due on the following Monday, and the Companies will have only one business day to respond. The Companies cannot effectively respond to Petitions if they are given only one or two working days to develop their Reply.

The Companies can avoid this situation if they make their new or revised tariff filing on a Monday or a Tuesday. However, a petitioner could file in less than six days, and could thereby put the Companies back in the position of having only one or two business days to file their Reply. To avoid this problem, the Companies propose that Replies be due within three days after the latest date upon which the Petition could have been filed. Under this proposal, an early-filed Petition would not trigger the three day time period. Rather, the three day period for Replies would always begin to run on the last day for timely-filed Petitions. This rule would eliminate the possibility that a petitioner could strategically time its filing in order to give the Companies little or no time to prepare their Reply.

It would also serve another important purpose. It would ensure that the Companies would not be required to file multiple Replies, when a single consolidated Reply would do. Multiple Petitions are frequently filed, and they are often filed on different dates. If a Petition is filed early, the Companies could be obligated to prepare and file a Reply before all Petitions are due. The Companies could then be served with another Petition objecting to the same tariff filing. This situation can be avoided if the Commission adopts the proposed modification.

II. Service By Facsimile Is Appropriate, If Accompanied By A Follow-Up Telephone Call to Confirm Delivery of the Petition or Reply

The Companies endorse the proposal to require personal service of Petitions and Replies. Because personal service is not always feasible, the Companies also support the proposal to allow service by facsimile ("fax"), followed by the mailing of a copy of the pleading.

The Companies believe that one further refinement is necessary to ensure the efficacy of service by fax. The party serving pleadings by fax should be required to place a telephone call to the receiving party in order to confirm that the fax was in fact received.

The pitfalls of faxing are well known. Large companies such as the Ameritech Operating Companies have hundreds of fax machines across the country, and faxes can be delivered to the wrong machine and the wrong location within the companies. It is also possible to simply dial a "wrong" number. Further, fax machines can break down, run out of toner, or run out of paper. A confirmation requirement will ensure that these obstacles have not prevented delivery of the pleading to the proper party.³ This modification is necessary, and should be adopted by the Commission.

III. Conclusion

For all of these reasons, the Companies respectfully request the Commission to modify its proposal by allowing Replies to be filed within three days after the latest date upon which the Petition could have been filed,

³Of course, all parties would have to provide the appropriate fax telephone number for the location at which they would like to receive the pleadings.

and by requiring parties who serve pleadings by fax to place a telephone call to confirm delivery of the fax.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Mark R. Ortlieb", written over a horizontal line.

Floyd S. Keene

Mark R. Ortlieb

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